

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 11821 of 1999(S)

AGAINST THE ORDER IN RA.NO.143/COCH/98 IN
ITA.570/COCH/1993 of INCOME TAX APPELLATE TRIBUNAL,
COCHIN BENCH.

PETITIONER:

THE COMMISSIOENR OF INCOME TAX, CALICUT.

BY STANDING COUNSEL, GOVERNMENT OF INDIA (TAXES)
SRI.P.K.RAVINDRANATHA MENON (SR.)
SRI.GEORGE K. GEORGE

RESPONDENT:

M/S.IDEAL PUBLICATIONS TRUST,
SILVER HILLS, CALICUT, 673 012.

BY ADV. SRI.S.VIJAYAN NAYAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

O.P.No.11821 of 1999-S

Dated, this the 26th day of July, 2007

JUDGMENT

H.L. DATTU, C.J.

This is a petition filed by the Revenue under section 256(2) of the Income Tax Act, 1961, hereinafter for the sake of brevity referred to as the Act.

2. The assessee was before the Income Tax Appellate Tribunal, Cochin Bench in I.T.A. No.570/1993 for the assessment year 1990-91. The Tribunal has allowed the assessee's appeal and thereby has set aside the orders passed by the Commissioner of Income-tax (Appeals), Calicut, dated 31.5.1993.

3. The Revenue had filed an application under section 256(1) of the Income Tax Act inter alia requesting the Tribunal to state the case and refer the questions of law for consideration and decision of this court. The Tribunal has rejected the said application/petition. That is how the Revenue is before us in this petition filed under section 256(2) of the Act.

4. The Revenue has raised the following questions of law. They are as under:

“1. Whether, on the facts and in the circumstances of the case, is the assessee a charitable institution entitled to the exemption provided under section 11 of the Income Tax Act, 1961 in respect of its income?

2. Whether, on the facts and in the circumstances of the case, the Tribunal is right in law and fact in holding that the assessee trust had the intention of carrying on the newspaper publications activity for the purpose of fulfilling the objects of education and

medical relief to the needy persons as a charitable trust?

5. After going through the orders passed by the Tribunal and after perusing the questions of law framed by the Revenue, we are of the opinion that the questions of law raised by the Revenue requires consideration and decision by this court. Therefore we pass the following:

Order

i) The petition is allowed.

ii) A direction is issued to the Income Tax Appellate Tribunal, Cochin Bench to state the case and refer the questions of law arising out of the order passed in ITA No.570/1993 for the assessment year 1990-91 as expeditiously as possible.

Ordered accordingly.

**H.L. DATTU,
CHIEF JUSTICE.**

**K.T. SANKARAN,
JUDGE.**

mt/

H.L.DATTU, C.J. &
K.T.SANKARAN, J.

O.P. 11821 OF 1999

JUDGMENT

26.7.2007